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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
NORTHERN DIVISION

In re:

HVI CAT CANYON, INC.,

Debtor.

) Case No.: 9:19-BK-11573-MB

) Chapter 11

) **JOINDER TO OPPOSITION TO
MOTION FOR RELIEF FROM STAY**

) Date: February 25, 2020

) Time: 10:00 a.m.

) Dept: 1415 State Street, Courtroom 201
Santa Barbara, California 93101

**TO THE HONORABLE MARTIN R. BARASH, UNITED STATES BANKRUPTCY
JUDGE, AND ALL PARTIES IN INTEREST AND THEIR ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that the California State Lands Commission (the “Commission”), The California Geologic Energy Management Division (“CalGEM”), The California Department of Fish and Wildlife, Santa Barbara County, the Air Pollution Control District, the Office of Harry E. Hagen, Treasurer-Tax Collector, and royalty interest holders BUGANKO, LLC (collectively “Opponents”) hereby join in the opposition of Michael A. McConnell, the Chapter 11 Trustee (the “Trustee”), filed on February 11, 2020 (Docket No. 787, the “Opposition”) to the motion for relief from the automatic stay (Docket No. 767, the “Motion”) filed by GRL, LLC (“GRL”). The Motion should be denied for the following reasons:

1. The Trustee’s Segregation of Royalties Is Pursuant to a Court Order.

The Motion is largely predicated on the fact that royalties allegedly payable to GRL have been placed in a separate trust account. This segregation of funds is not wrongful. In fact, it is in accordance with a court order. Specifically, one of the orders on a first-day motion in this case expressly instructed the then-debtor-in-possession to segregate funds owed to the debtor’s insiders. *See* Docket No. 43 at ¶ 9 (entered on August 14, 2019 by the Honorable Michael E. Wiles). Since his appointment in this case, the Trustee has simply continued to segregate amounts payable to the debtor’s insiders in compliance with this order. GRL is wrong in suggesting that the Trustee’s apportionment of funds is unauthorized. The fact that the Trustee has been depositing royalties into a segregated account does not warrant relief from stay.

Moreover, Mr. Randeep Grewal was well aware of the procedure established by Judge Wiles in August 2019. He could have challenged the process during the hearings on the first-day motions in this case in the Southern District of New York. Instead, he chose to submit a declaration in support of the Motion filed on February 3, 2020, six months later, as if the segregation of royalties allegedly payable to GRL was somehow new to him. A motion for relief

1 from stay is not the proper procedural vehicle for Mr. Grewal to protest the establishment of a
2 separate trust account for monies payable to the debtor's insiders.¹

3 **2. GRL Is an Affiliate of HVI, and the Trustee Has Not Had a Sufficient**
4 **Opportunity to Examine Inter-Company Transfers.**

5 GRL is an affiliated entity under common ownership with HVI. Transfers by and between
6 HVI's affiliates – including GRL – are potentially subject to challenge under a variety of theories.
7 At this time, the Trustee has not yet had a sufficient opportunity to explore the relationship among
8 HVI's affiliates and whether various transfers may be avoidable. The Trustee should be given an
9 opportunity to investigate the transfers made among HVI's affiliates, including the amounts that
10 GRL purports to be owed in the Motion.

11 **3. GRL's Affiliate Failed to Pay \$1.5 Million Owed to HVI.**

12 It is questionable whether GRL is owed any money whatsoever. GRL's affiliate
13 wrongfully withheld approximately \$1.5 million from HVI. When the Trustee was appointed, he
14 was still selling oil and gas produced by HVI to an affiliated entity: California Asphalt Production,
15 Inc. ("CAP"). In October 2019, the Trustee delivered crude petroleum product to CAP pursuant to
16 an agreement between the parties. On or about October 20, 2019, CAP was contractually
17 obligated to pay approximately \$1.8 million to HVI but only paid \$300,000. To date, CAP has not
18 satisfied its obligation to pay \$1.5 million that it owes to HVI.² Moreover, after October 20, 2019,
19 HVI continued to deliver product to CAP, and CAP failed to pay for it, as well. At the very least,
20 a forensic accounting is needed to assess the various transactions among HVI's insiders. And
21 GRL certainly cannot claim that it is entitled to relief from stay in order to pursue a claim for
22 \$100,000 when its affiliate owes HVI exponentially more than this amount.

23 ¹ Opponents also join in the Trustee's evidentiary objections to the Declaration of
24 Randeep S. Grewal submitted in support of the Motion. The statements in the declaration lack
25 foundation, given that Mr. Grewal provides no evidentiary support for the amounts GRL is
26 purportedly owed, other than to assert that the amounts are "[a]ccording to information from the
27 estate." Grewal Decl., ¶ 4. Mr. Grewal's representations regarding that amounts GRL claims to
be owed are unsupported hearsay. Mr. Grewal's declaration should be stricken in its entirety
because it lacks any probative value. The lack of evidentiary support for the allegations contained
in the Motion constitutes a separate basis for denying the Motion.

28 ² See Declaration of Alicia Clough, filed concurrently ("Clough Decl."), Ex. A (1/30/2020
Hearing Transcript at 24:10-25:10).

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2 **4. GRL Has Not Established “Cause” for Relief from Stay.**

3 GRL has not even attempted to establish “cause” for relief from the automatic stay in
4 accordance with 11 U.S.C. section 362(d). As the moving party, GRL bears the burden to show
5 cause warranting relief from stay. *See, e.g., Truebro, Inc. v. Plumberex Specialty Prods., Inc. (In*
6 *re Plumberex Specialty Prods., Inc.)*, 311 B.R. 551, 557 (Bankr. C.D. Cal. 2004) (“To obtain relief
7 from the automatic stay, the party seeking relief must first establish a prima facie case that ‘cause’
8 exists for relief under § 362(d)(1).”) (citations omitted). Rather than attempting to show cause,
9 GRL simply advances its legal theories regarding property rights pursuant to section 541 in
10 connection with oil and gas ownership according to California state law. GRL appears to have
11 articulated these same concepts in its answer and “counterclaim” in response to an adversary
12 proceeding initiated by the Trustee. *See* Docket No. 6 in Case No. 9:20-ap-01006-MB. GRL does
13 not need the extraordinary remedy of relief from stay to litigate this theory. The issue will
14 presumably be determined in due course in the avoidance action. The fact that the parties may
15 have a disagreement over the nature of the property rights at issue does not constitute “cause”
16 justifying relief from stay.

17 **5. GRL’s Proposed Alternative Relief Would Violate the Bankruptcy Code.**

18 GRL contends that it should be entitled to receive its share of royalties directly from the
19 purchasers of oil and gas pursuant to an “Oil and Gas Division Order” that was allegedly presented
20 to those purchasers. Motion at 3:11-14. There is no basis for instructing purchasers to pay GRL
21 for product delivered to them by HVI. Indeed, any such instruction would interfere with HVI’s
22 business relationships with those purchasers. These purchasers represent newly forged
23 relationships identified by the Trustee. Upon his appointment, the Trustee quickly recognized that
24 he needed to source alternative buyers of HVI’s petroleum product because he concluded that HVI
25 was selling product to insiders at a rate that was below market.³ GRL is now proposing that the
26 Court should order these newly identified buyers to suddenly redirect their payments to GRL, an
27

28 ³ *See* Clough Decl., Ex. A (1/30/2020 Hearing Transcript at 24:10-20).

1 entity unknown to them. Such a disruption in the ordinary course of the buyer-seller relationship
2 between the Trustee and these purchasers would, understandably, make these buyers hesitant to
3 keep doing business with the Trustee. GRL has not offered any grounds for circumventing the
4 Trustee or otherwise upending transactions that the Trustee has made in his sound business
5 judgment. If anything, instructing purchasers to pay GRL directly would, in itself, constitute a
6 violation of the automatic stay. Accordingly, GRL's suggested alternative relief would violate the
7 Bankruptcy Code. GRL has not proffered any legal basis for this relief.

8 * * *

9 For all of the foregoing reasons, as well as the reasons set forth in the Trustee's opposition
10 to the motion for relief from stay, the Motion should be denied, and Mr. Grewal's declaration
11 should be stricken..

12
13 Dated: February 11, 2020

LOEB & LOEB LLP

14
15 By: /s/ Marc S. Cohen

Marc S. Cohen

16 *Attorneys for the California State Lands*
17 *Commission*
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

10100 Santa Monica Blvd., Suite 2200, Los Angeles, CA 90067

A true and correct copy of the foregoing document entitled (*specify*): **JOINDER TO OPPOSITION TO MOTION FOR RELIEF FROM STAY** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **February 11, 2020**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On **February 11, 2020**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Debtor
HVI Cat Canyon, Inc.
c/o Capitol Corporate Services, Inc.
36 S. 18th Avenue, Suite D
Brighton, CO 80601

Debtor
HVI Cat Canyon, Inc.
630 Fifth Avenue, Suite 2410
New York, NY 10111

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **February 11, 2020**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Honorable Martin R. Barash
United States Bankruptcy Judge
United States Bankruptcy Court
Central District of California
21041 Burbank Boulevard, Suite 342 I Courtroom 303
Woodland Hills, CA 91367

Via Overnight Delivery

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

February 11, 2020
Date

Keisha Lyles
Printed Name

/s/ Keisha Lyles
Signature

ADDITIONAL SERVICE INFORMATION (if needed):

1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF"):

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